

UNITED STATES DISTRICT COURT
Eastern District of Michigan

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

v.

Case Number: 0645 2:23CR20174 (1)
James W. Cooper & Kevin Toomey
Defendant Organization's Attorney

STERLING BANCORP, INC.**THE DEFENDANT ORGANIZATION:**

| | | |
|-------------------------------------|---|-----------------------------|
| <input checked="" type="checkbox"/> | pleaded guilty to count(s) | 1 of the Information |
| <input type="checkbox"/> | pleaded nolo contendere to count(s) which was accepted by the court | |
| <input type="checkbox"/> | was found guilty on count(s) after a plea of not guilty | |

The organizational defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense

15 U.S.C. §§ 78j(b) and 78ff(a) Securities Fraud

Offense Ended

March 2019

Count

1

The defendant organization is sentenced as provided in pages 2 through 5 of this judgment.

- ☐ The defendant organization has been found not guilty on count(s)
- ☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's
Federal Employer I.D. No.: 38-3163775

Defendant Organization's Principal Business Address:
One Towne Square, Suite 1900
Southfield, MI 48076

Defendant Organization's Mailing Address:
One Towne Square, Suite 1900
Southfield, MI 48076

July 19, 2023

Date of Imposition of Judgment

s/Linda V. Parker

Signature of Judge

Linda V. Parker
United States District Court Judge

Title of Judge

7/21/2023

Date

DEFENDANT: Sterling Bancorp, INC
CASE NUMBER: 0645 2:23CR20174 (1)

PROBATION

The defendant organization is hereby sentenced to probation for a term of: 3 years.

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organization's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

DEFENDANT: Sterling Bancorp, INC
CASE NUMBER: 0645 2:23CR20174 (1)

ADDITIONAL PROBATION TERMS

1. Restitution in the amount of \$27,239,000.00 is imposed. Payment of restitution shall be paid to the Clerk of the Court for disbursement to the non-insider victim-shareholders. Payment of interest is waived.
2. Within 30 days, the Court will appoint a Special Master to make findings of fact and recommendations to the Court regarding the non-insider victim-shareholders and entities entitled to restitution, and the restitution amounts to which these individuals and entities are entitled ("the Restitution Fund). All costs, fees, and expenses related to the Special Master's administration of the Restitution Fund or otherwise incurred in carrying out his duties shall be negotiated between the defendant and the Special Master and submitted to the Court for approval.
3. The U.S. Probation Department shall have available to it any written reports prepared by the Corporate Compliance Program and the Special Master regarding STERLING BANCORP, INC.'s compliance with the terms and conditions.

DEFENDANT: Sterling Bancorp, INC
CASE NUMBER: 0645 2:23CR20174 (1)

CRIMINAL MONETARY PENALTIES

The defendant organization must pay the total criminal monetary penalties under the schedule of payments.

| | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| TOTALS | \$400.00 | None | \$27,239,000.00 |

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☐ The defendant organization must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant organization shall pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☒ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
- ☒ the interest requirement is waived for the ☐ fine ☒ restitution
☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Sterling Bancorp, INC
CASE NUMBER: 0645 2:23CR20174 (1)

SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A** ☒ Lump sum payments of \$27,239,400.00 (special assessment and restitution) due within 30 days, balance due
☐ not later than _____, or
☐ in accordance with ☐ C or ☐ D below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C** ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Special instructions regarding the payment of criminal monetary penalties:

All criminal penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.